791.02. As used in this act:

(a) (1) "Adverse underwriting decision" means any of the following actions with respect to **insurance** transactions involving **insurance** coverage that is individually underwritten:

(A) A declination of **insurance** coverage.

(B) A termination of **insurance** coverage.

(C) Failure of an agent to apply for **insurance** coverage with a specific **insurance** institution that the agent represents and that is requested by an applicant.

(D) In the case of a property or casualty **insurance** coverage:

(i) Placement by an **insurance** institution or agent of a risk with a residual market mechanism, with an unauthorized insurer, or with an **insurance** institution that provides **insurance** to other than preferred or standard risks, if in fact the placement is at other than a preferred or standard rate. An adverse underwriting decision, in case of placement with an **insurance** institution that provides **insurance** to other than preferred or standard risks, shall not include placement if the applicant or insured did not specify or apply for placement as a preferred or standard risk or placement with a particular company insuring preferred or standard risks, or

(ii) The charging of a higher rate on the basis of information which differs from that which the applicant or policyholder furnished.

(E) In the case of a life, health, or disability **insurance** coverage, an offer to insure at higher than standard rates.

(2) Notwithstanding paragraph (1), any of the following actions shall not be considered adverse underwriting decisions but the **insurance** institution or agent responsible for their occurrence shall nevertheless provide the applicant or policyholder with the specific reason or reasons for their occurrence:

(A) The termination of an individual policy form on a class or statewide basis.

(B) A declination of **insurance** coverage solely because coverage is not available on a class or statewide basis.

(C) The rescission of a policy.

(b) "Affiliate" or "affiliated" means a person that directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with another person.

(c) "Agent" means any person licensed pursuant to Chapter 5 (commencing with Section 1621), Chapter 5A (commencing with Section 1759), Chapter 6 (commencing with Section 1760), Chapter 7 (commencing with Section 1800), or Chapter 8 (commencing with Section 1831).

(d) "Applicant" means any person who seeks to contract for **insurance** coverage other than a person seeking group **insurance** that is not individually underwritten.

(e) "Consumer report" means any written, oral, or other communication of information bearing on a natural person's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living that is used or expected to be used in connection with an **insurance** transaction.

(f) "Consumer reporting agency" means any person who:

(1) Regularly engages, in whole or in part, in the practice of assembling or preparing consumer reports for a monetary fee.

(2) Obtains information primarily from sources other than **insurance** institutions.

(3) Furnishes consumer reports to other persons.

(g) "Control," including the terms "controlled by" or "under common control with," means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person.

(h) "Declination of **insurance** coverage" means a denial, in whole or in part, by an **insurance** institution or agent of requested **insurance** coverage.

(i) "Individual" means any natural person who is any of the following:

(1) In the case of property or casualty **insurance**, is a past, present, or proposed named insured or certificate holder.

(2) In the case of life or disability **insurance**, is a past, present, or proposed principal insured or certificate holder.

(3) Is a past, present, or proposed policyowner.

(4) Is a past or present applicant.

(5) Is a past or present claimant.

(6) Derived, derives, or is proposed to derive **insurance** coverage under an **insurance** policy or certificate subject to this act.

(j) "Institutional source" means any person or governmental entity that provides information about an individual to an agent, **insurance** institution, or **insurance**-support organization, other than any of the following:

(1) An agent.

(2) The individual who is the subject of the information.

(3) A natural person acting in a personal capacity rather than in a business or professional capacity.

(k) "**Insurance** institution" means any corporation, association, partnership, reciprocal exchange, interinsurer, Lloyd's insurer, fraternal benefit society, or other person engaged in the business of **insurance**. "**Insurance** institution" shall not include agents, **insurance**-support organizations, or health care service plans regulated pursuant to the Knox-Keene Health Care Service Plan Act, Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety **Code**.

(l) "**Insurance**-support organization" means:

(1) Any person who regularly engages, in whole or in part, in the business of assembling or collecting information about natural persons for the primary purpose of providing the information to an **insurance** institution or agent for **insurance** transactions, including either of the following:

(A) The furnishing of consumer reports or investigative consumer reports to an **insurance** institution or agent for use in connection with an **insurance** transaction.

(B) The collection of personal information from **insurance** institutions, agents, or other **insurance**-support organizations for the purpose of detecting or preventing fraud, material misrepresentation or material nondisclosure in connection with **insurance** underwriting or **insurance** claim activity.

(2) Notwithstanding paragraph (1), the following persons shall not

be considered "**insurance**-support organizations": agents, governmental institutions, **insurance** institutions, medical care institutions, medical professionals, and peer review committees.

(m) "**Insurance** transaction" means any transaction involving **insurance** primarily for personal, family, or household needs rather than business or professional needs that entails either of the following:

(1) The determination of an individual's eligibility for an **insurance** coverage, benefit, or payment.

(2) The servicing of an **insurance** application, policy, contract, or certificate.

(n) "Investigative consumer report" means a consumer report or portion thereof in which information about a natural person's character, general reputation, personal characteristics, or mode of living is obtained through personal interviews with the person's neighbors, friends, associates, acquaintances, or others who may have knowledge concerning those items of information.

(o) "Medical care institution" means any facility or institution that is licensed to provide health care services to natural persons, including but not limited to, hospitals, skilled nursing facilities, home health agencies, medical clinics, rehabilitation agencies, and public health agencies.

(p) "Medical professional" means any person licensed or certified to provide health care services to natural persons, including but not limited to, a physician, dentist, nurse, optometrist, physical or occupational therapist, psychiatric social worker, clinical dietitian, clinical psychologist, chiropractor, pharmacist, or speech therapist.

(q) "Medical record information" means personal information that is both of the following:

(1) Relates to an individual's physical or mental condition, medical history or medical treatment.

(2) Is obtained from a medical professional or medical care institution, from the individual, or from the individual's spouse, parent, or legal guardian.

(r) "Person" means any natural person, corporation, association, partnership, limited liability company, or other legal entity.

(s) "Personal information" means any individually identifiable information gathered in connection with an **insurance** transaction from which judgments can be made about an individual's character, habits, avocations, finances, occupation, general reputation, credit, health, or any other personal characteristics. "Personal information" includes an individual's name and address and "medical record information" but does not include "privileged information."

(t) "Policyholder" means any person who is any of the following:

(1) In the case of individual property or casualty **insurance**, is a present named insured.

(2) In the case of individual life or disability **insurance**, is a present policyowner.

(3) In the case of group **insurance**, which is individually underwritten, is a present group certificate holder.

(u) "Pretext interview" means an interview whereby a person, in an attempt to obtain information about a natural person, performs one or more of the following acts:

(1) Pretends to be someone he or she is not.

(2) Pretends to represent a person he or she is not in fact representing.

(3) Misrepresents the true purpose of the interview.

(4) Refuses to identify himself or herself upon request.

(v) "Privileged information" means any individually identifiable information that both:

(1) Relates to a claim for **insurance** benefits or a civil or criminal proceeding involving an individual.

(2) Is collected in connection with or in reasonable anticipation of a claim for **insurance** benefits or civil or criminal proceeding involving an individual. However, information otherwise meeting the requirements of this division shall nevertheless be considered "personal information" under this act if it is disclosed in violation of Section **791**.13.

(w) "Residual market mechanism" means the California FAIR Plan Association, Chapter 10 (commencing with Section 10101) of Part 1 of Division 2, and the assigned risk plan, Chapter 1 (commencing with Section 11550) of Part 3 of Division 2.

(x) "Termination of **insurance** coverage" or "termination of an **insurance** policy" means either a cancellation or nonrenewal of an **insurance** policy, in whole or in part, for any reason other than the failure to pay a premium as required by the policy.

(y) "Unauthorized insurer" means an **insurance** institution that has not been granted a certificate of authority by the director to transact the business of **insurance** in this state.

(z) "Commissioner" means the **Insurance** Commissioner.